

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

MICHAEL P. AND SHELLIE GILMOR, )  
v. )  
Plaintiffs, )  
PREFERRED CREDIT CORPORATION, )  
et al., )  
Defendants. )  
Case No. 4:10-CV-00189-ODS

**PLAINTIFFS AND SETTLING DEFENDANTS' JOINT STATUS REPORT**

In its June 28, 2011 Order, this Court granted Plaintiffs' and the undersigned moving defendants' (the "Defendants")<sup>1</sup> joint motion to stay all proceedings in connection with plaintiffs' claims against Defendants and certain other parties. (Doc. #328). In accordance with that Order, Plaintiffs and Defendants filed a Joint Status Report on November 1, 2011. (Doc. #400). In August 2012, counsel for Plaintiffs and Defendants jointly called the Court, reported that settlement agreements resolving all claims against Defendants had been executed, and provided information to the Court regarding the status of those settlements. To provide the Court with a further update regarding the status of the settlements between these parties, Plaintiffs and Defendants state as follows:

1. The above captioned case is a class action lawsuit involving claims by Missouri homeowners for violations of Missouri's Second Mortgage Loans Act, §§ 408.231 RSMo, *et seq.*

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<sup>1</sup> The undersigned defendants are U.S. Bank National Association in its trustee and individual capacities, U.S. Bank National Association ND, Wilmington Trust Company in its trustee and individual capacities, Empire Funding Home Loan Owner Trust 1998-1, Empire Funding Grantor Trust 1998-1, Empire Funding Home Loan Owner Trust 1999-1, and Empire Funding Grantor Trust 1999-1.

2. On August 9, 2012, Plaintiffs, U.S. Bank National Association ND and U.S. Bank National Association executed a settlement agreement resolving Plaintiffs' claims arising out of second mortgage loans purchased directly by U.S. Bank National Association ND and U.S. Bank National Association (the "Direct Loans Agreement").

3. On August 20, 2012, Plaintiffs, Empire Funding Home Loan Owner Trust 1998-1, Empire Funding Grantor Trust 1998-1, Empire Funding Home Loan Owner Trust 1999-1, Empire Funding Grantor Trust 1999-1, U.S. Bank National Association in its trustee and individual capacities, and Wilmington Trust Company in its trustee and individual capacities executed a settlement agreement resolving Plaintiffs' claims arising out of second mortgage loans purchased by the Empire Trusts (the "Trust Loans Agreement").

4. The agreements are global settlements that resolve claims relating to over 3,300 loans in eight separate lawsuits venued in both Missouri Federal and State Court. The settlements resolve claims relating to approximately 222 loans in this action.

5. The settlements are being accomplished through the filing of two new class action lawsuits in the Circuit Court of Jackson County, Missouri. The settlement relating to the Direct Loans Agreement is being effectuated in an action entitled *Thomas v. U.S. Bank National Association, et al.*, Case No. 1216-cv20561, filed August 10, 2012 (Cir. Ct. Jackson County, Missouri) (the "*Thomas* Settlement Litigation"). The settlement relating to the Trust Loans Agreement is being effectuated in an action entitled *Beaver v. U.S. Bank National Association, et al.*, Case No. 1216-cv21345, filed August 20, 2012 (Cir. Ct. Jackson County, Missouri) (the "*Beaver* Settlement Litigation").

6. A Preliminary Approval Order was entered in the *Thomas* Settlement Litigation on August 13, 2012. The Fairness Hearing in that matter is scheduled for 1:15 p.m. on

November 16, 2012, in Division 16 at the Jackson County Courthouse, 308 W. Kansas, Independence, Missouri.

7. The deadline for class members to opt out, object, or intervene in the *Thomas* Settlement Litigation was October 15, 2012. No class member opted out, objected or moved to intervene in the settlement action.

8. A Preliminary Approval Order was entered in the *Beaver* Settlement Litigation on August 21, 2012. The Fairness Hearing in that matter is scheduled for 8:30 a.m. on November 26, 2012, in Division 16 at the Jackson County Courthouse, 308 W. Kansas, Independence, Missouri.

9. The deadline for class members to opt out, object, or intervene in the *Beaver* Settlement Litigation was October 22, 2012. No class member opted out or moved to intervene in the settlement action. One class member lodged an objection.

10. Upon the receipt of final approval orders, Plaintiffs anticipate filing motions, notices, or stipulations necessary to voluntarily dismiss their claims against Defendants and other released persons as defined in the settlement agreements as to released claims "with prejudice," with the dismissal Orders contingent upon the satisfaction of all prerequisites for achieving the effective date of the settlements.

Respectfully submitted,

Dated: October 30, 2012

/s/ R. Frederick Walters

R. FREDERICK WALTERS MO. BAR #25069  
KIP D. RICHARDS MO. BAR # 39743  
DAVID M. SKEENS MO. BAR #35728  
WALTERS BENDER STROHBEHN & VAUGHAN  
2500 City Center Square  
1100 Main Street  
Kansas City, Missouri 64105  
(816) 421-6620  
(816) 421-4747 (Facsimile)

Attorneys for Plaintiffs and Class Counsel

/s/ Peter W. Carter

PETER W. CARTER, *pro hac vice*  
PAUL R. DIESETH, *pro hac vice*  
DORSEY & WHITNEY LLP  
50 South 6th  
Suite 1500  
Minneapolis, Minnesota 55402-149

MARK A. OLTHOFF  
POLSONELLI SHUGHART PC  
1700 Twelve Wyandotte Plaza  
120 West 12th Street  
Kansas City, Missouri 64105-1929

Attorneys for Defendants

U.S. Bank National Association in its trustee and individual capacities, U.S. Bank National Association ND, Wilmington Trust Company in its trustee and individual capacities, Empire Funding Home Loan Owner Trust 1998-1, Empire Funding Grantor Trust 1998-1, Empire Funding Home Loan Owner Trust 1999-1, and Empire Funding Grantor Trust 1999-1

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this the 30<sup>th</sup> day of October 2012, I electronically filed the above and foregoing document with the Clerk of Court of the Western District of Missouri using the Court's ECF system, which will send notification of said filing to all counsel of record who are ECF participants. In addition, a copy was served by U.S. mail, First-Class Postage Prepaid, to:

Arthur E. Kechijian, Manager  
United Mortgage C.B., LLC  
P.O. Box 471827  
Charlotte, NC 28247  
**Defendant United Mortgage C.B., L.L.C.**

/s/ R. Frederick Walters